

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	Cr. No. C-08-52
	§	
JUAN RODRIGUEZ-GARCIA.	§	

**MEMORANDUM OPINION AND ORDER
DENYING LETTER MOTIONS WITHOUT PREJUDICE**

Defendant Juan Rodriguez-Garcia has sent two letters to the Clerk, both of which seek information concerning his likely release date from the BOP. In the first, received September 29, 2008 (D.E. 34), Rodriguez-Garcia states that he is incarcerated in Conroe, Texas and is “requesting my time calculation of back time and good time and my release date so I can prepare for release.” (D.E. 34 at 1.) He explains that his current place of incarceration had informed him they had no information concerning his federal sentence, and that he should contact the U.S. Marshal Service. (Id.)

In the second, received October 24, 2008, Rodriguez-Garcia again asks for information concerning the time he has served and a likely release date. (D.E. 35.) In this second letter, he also requests that he be moved to a “county unit closer to home,” although he does not specify where home is.

It is not clear whether Rodriguez-Garcia is seeking some relief from this Court, or simply asking for information. To the extent he is requesting relief from the Court, the motion is DENIED WITHOUT PREJUDICE to Defendant’s ability to seek relief elsewhere, for the reasons set forth herein.

I. Request for Information Concerning His Sentence

As to Rodriguez-Garcia's request for information regarding his sentence, the Court is unable to give information to him as to how the Bureau of Prisons is computing his sentence and what time he has been or has not been given credit for. The information publicly available on the Bureau of Prisons' website (www.bop.gov) indicates that he is located at Dallas CCM, and lists a projected release date for Rodriguez-Garcia of March 8, 2009. If Rodriguez-Garcia desires more detailed information concerning the calculation of his sentence, he should contact the Bureau of Prisons.¹ If he wants to challenge the BOP's computation of a sentence, such a challenge should be brought in a motion pursuant to 28 U.S.C. § 2241. See Pack v. Yusuff, 218 F.3d 448, 451 (5th Cir. 2000)(a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is the appropriate vehicle in which "a sentenced prisoner attacks the manner in which a sentence is carried out or the prison authorities' determination of its duration")(citations omitted); United States v. Gabor, 905 F.2d 76, 77-78 n.2 (5th Cir. 1990); United States v. Garcia-Gutierrez, 835 F.2d 585, 586 (5th Cir. 1998) (holding that claims for sentence credit to federal sentences are properly brought pursuant to § 2241). See also Leal v. Tombone, 341 F.3d 427, 429 (5th Cir. 2003) (analyzing claim for credit under § 2241).

II. Request for Transfer

As noted, Rodriguez-Garcia's second letter also seeks a transfer to a "county unit

¹ If the website information is correct and Garcia-Rodriguez is now at a Bureau of Prisons facility, perhaps he has already obtained more detailed information.


closer to home.” In his earlier letter, he indicates that his family has moved to Iowa, so the Court does not know whether the term “home” references Iowa or Harlingen, Texas, where he lived prior to his arrest for the instant offense. (See Presentence Investigation Report at ¶ 27.)

Even if it knew the place that Rodriguez-Garcia is referring to as “home,” this Court is unable to order the Bureau of Prisons to transfer a prisoner to any location of facility. Instead, such placement decisions are made by the Bureau of Prisons, in its discretion and according to its security and other needs. Accordingly, to the extent Rodriguez-Garcia is requesting a transfer from this Court, this request is DENIED WITHOUT PREJUDICE to his ability to seek such relief from the Bureau of Prisons.

CONCLUSION

For the foregoing reasons, to the extent that Defendant seeks some relief from this Court in either of his two letters (D.E. 34, 35), that relief is DENIED WITHOUT PREJUDICE.

It is so ORDERED this 7th day of November 2008.


HAYDEN HEAD
CHIEF JUDGE